

**UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:

BIG LOTS, INC., *et al.*,

Debtors.

Chapter 11

Case No. 24-11967 (JKS)

(Jointly Administered)

**Obj. Deadline: December 30, 2024 at
11:00 a.m. (ET)**

**Hearing Date: December 30, 2024 at
11:00 a.m. (ET)**

Related Doc: 954, 1437, 1474

**JOINDER OF BANCKENTUCKY, INC. TO OBJECTION AND RESERVATION OF
RIGHTS OF WPG LEGACY, LLC TO THE MOTION FOR ENTRY OF AN ORDER (I)
APPROVING SALE OF DEBTORS' ASSETS FREE AND CLEAR OF LIENS, CLAIMS,
INTERESTS, AND ENCUMBRANCES, (II) AUTHORIZING THE DEBTORS TO ENTER
INTO AND PERFORM UNDER THE GBRP APA, (III) AUTHORIZING ASSUMPTION
AND ASSIGNMENT OF EXECUTORY CONTRACTS AND UNEXPIRED LEASES, AND
(IV) GRANTING RELATED RELIEF**

BancKentucky, Inc. (“BancKentucky”), by its undersigned counsel, hereby joins (this “Joinder”) in the *Objection and Reservation of Rights of WPG Legacy, LLC to the Motion for Entry of an Order (I) Approving Sale of Debtors’ Assets Free and Clear of Liens, Claims, Interests, and Encumbrances, (II) Authorizing the Debtors to Enter Into and Perform Under the GRBP APA, (III) Authorizing Assumption and Assignment of Executory Contracts and Unexpired Leases, and (IV) Granting Related Relief* [Docket No. 1474] (the “Landlord Objection”).¹ In support of this Joinder, BancKentucky respectfully states:

BACKGROUND

¹ Capitalized terms not defined herein shall have the meanings ascribed to them in the Sale Motion (as defined herein).

1. On September 9, 2024 (the “Petition Date”), the Debtors filed voluntary petitions for relief under chapter 11 of title 11 of the United States Code (the “Bankruptcy Code”) in the United States Bankruptcy Court for the District of Delaware (this “Court”).

2. Upon information and belief, the Debtors are operating their businesses and managing their properties as debtors-in-possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code.

3. The Debtors and BancKentucky are parties to that certain unexpired lease of nonresidential real property (the “BancKentucky Lease”) involving the Debtors’ retail store (the “Leased Premises”) identified below:

Landlord	Shopping Center	Address
BancKentucky, Inc.	Chestnut Hills Shopping Center	700 U.S. Highway 641 North Murray, KY 42071

4. The Leased Premises is located in a “shopping center” as that term is used in section 365(b)(3) of the Bankruptcy Code. *See, e.g., In re Joshua Slocum Ltd.*, 922 F.2d 1081, 1086-87 (3rd Cir. 1990).

5. On November 6, 2024, BancKentucky filed its *Objection and Reservation of BancKentucky, Inc. to the (I) Notice of Proposed Assumption and Assignment of Executory Contracts or Unexpired Leases and Proposed Cure Amount and (II) Proposed Sale of Substantially All of the Debtors’ Assets* (the “BancKentucky Objection”).

6. Pursuant to email communications with lead bankruptcy counsel for the Debtors, the Davis Polk & Wardwell law firm, and the Debtors’ financial advisor, AlixPartners, LLP, as of the status conference held on December 19, 2024 (the “Status Conference”), the BancKentucky Objection was resolved as to both the cure amounts for the BancKentucky Lease and the adequate assurance

concerns raised therein with respect to Nexus.²

7. On December 27, 2024, the Debtors filed the *Motion for Entry of an Order (I) Approving Sale of Debtors' Assets Free and Clear of Liens, Claims, Interests, and Encumbrances, (II) Authorizing the Debtors to Enter into and Perform Under the GBRP APA, (III) Authorizing Assumption and Assignment of Executory Contracts and Unexpired Leases, and (IV) Granting Related Relief* (the “Sale Motion”), which seeks authority to enter into a sale (the “Proposed GBRP Sale”) of substantially all of its assets to Gordon Brothers Retail Partners, LLC (“GBRP”). Pursuant to the GBRP APA attached as Exhibit 1 to the Sale Motion, Variety Wholesalers (“Variety”) seeks to acquire “at least 200” of the Debtors’ retail locations to be operated as a going concern, with the option to expand to up to 400 total retail stores. *See* GBRP APA at Section 2.05(b)(ii).

8. On December 30, 2024, WPG Legacy, LLC (“WPG”) filed the Landlord Objection.

JOINDER AND RESERVATION OF RIGHTS

9. BancKentucky hereby joins in, and incorporates herein by reference, the Objection, and adopts the arguments in the Objection as its own. For the reasons stated in the Objection, BancKentucky objects to the Sale Motion to the extent the Debtors seek (i) to assume and assign the BancKentucky Lease to the extent that such assumption and assignment impairs BancKentucky’ s rights under the lease, (ii) to propose a payment to BancKentucky which does not satisfy all obligations under the BancKentucky Lease, (iii) the Debtors do not demonstrate adequate assurance of future payment, and (iv) where any Designation Rights does not comply with the BancKentucky Lease and/or the Bankruptcy Code, and does not protect BancKentucky’ s rights.

² For the avoidance of doubt, BancKentucky reserves the right to assert its right to payment for additional amounts accrued and unpaid under the BancKentucky Lease from and after the date of the Status Conference and the agreement reached. Further, BancKentucky’s resolution of its adequate assurance of future performance objection with respect to Nexus does not apply to any other assignee of the Debtors’ interest in the BancKentucky Lease that may be contemplated under the Sale Motion (as subsequently defined herein).

10. BancKentucky reserves any and all rights to supplement and/or amend this Joinder and expressly reserves the right to raise any additional objections with respect to the Sale Motion.

JOINDER IN OTHER LANDLORD OBJECTIONS

11. BancKentucky hereby joins in the objections filed by Debtors' other landlords to the extent that such objections are not inconsistent with the provisions hereof.

WHEREFORE, BancKentucky respectfully requests that this Court: (a) sustain the Objection; (b) affirmatively require the Debtors and GBRP to comply with each and every term, condition and obligation set forth in the BancKentucky Lease; and (c) grant BancKentucky such other and further relief as this Court deems just and appropriate under the circumstances.

(Signature Page to Follow)

Dated: December 30, 2024

Respectfully submitted,

/s/ Susan E. Kaufman

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Counsel for BancKentucky, Inc.

CERTIFICATE OF SERVICE

I hereby certify that on December 30, 2024, I caused a true and correct copy of the foregoing to be served electronically to any party receiving ECF Notices in these cases.

*/s/ Susan E. Kaufman*_____

Susan E. Kaufman

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